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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,804	12/27/2001	Jeroen Heuvelman	US 018212	5512

7590

11/06/2003

Corporate Patent Counsel
Philips Electronics North America Corporation
580 White Plains Road
Tarrytown, NY 10591

EXAMINER

LAMBRECHT, CHRISTOPHER M

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 11/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/029,804

Applicant(s)

HEUVELMAN, JEROEN

Examiner

Christopher M. Lambrecht

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 3 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-3, 6, 7, 10, 14, 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Maissel (Maissel et al., US006637029B1).

With regard to claims 1, 10 & 16-20, Maissel discloses an apparatus, corresponding method, corresponding EPG comprising means (col. 9, lines 61-66), corresponding software application (col. 10, lines 43-48), and corresponding data service (col. 15, lines 15-40) for

generating a recommendation for a second electronic content to a user, while the user is consuming a first electronic content, wherein the recommendation is presented to the user at a moment that depends on a progress of an evolution of at least the first or the second content (col. 5, line 50 – col. 6 line 10).

With regard to claims 2 & 11, Maissel discloses the recommendation depends on data representative of at least one of: a user profile (col. 13, lines 34-41), an explicit user request (col. 19, lines 45-50), or a recent history of consumed content (col. 12, lines 23-35).

With regard to claim 3, Maissel discloses the second content information in the recommendation comprises multiple content items and wherein the items are offered to the user in order of relevance (col. 20, lines 28-44).

With regard to claim 6, Maissel discloses said moment is at or around a time of a trigger that is derived from the second content (col. 13, lines 25-35).

With regard to claims 7 & 14, Maissel discloses rendering the recommendation or a notification thereof using a portable wireless device (col. 15, lines 33-36).

With regard to claim 15, Maissel discloses rendering the recommendation or a notification thereof that comprises a generator for generating a graphical representation under control of the recommendation (col. 14, lines 6-10).

With regard to claim 20, Maissel discloses using the Internet for supply of the recommendation (col. 8, lines 59-65).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel in view of Dudkiewicz '463 (US 20020152463A1).

With regard to claims 4 and 12, Maissel discloses an apparatus and corresponding method for recommending electronic content to a user. However, Maissel does not disclose the progress is determined by at least one of following: meta-data of the first or second content, and from screening of at least the first or the second content.

Dudkiewicz '463 discloses the use meta-data to be processed by the client device for the purpose of describing the time and duration of the programming event (pg. 5, ¶54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Maissel to include meta-data to be processed by the client

device, as taught by Dudkiewicz '463, for the purpose of determining the time and duration of the programming event.

3. Claims 5 & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel in view of Schaffer (Schaffer et al., US 20020108113A1).

With regard to claims 5 and 13, Maissel discloses an apparatus and corresponding method for recommending electronic contents to a user, comprising enabling the user, upon presentation of the recommendation to: request additional information on the second content (col. 21, lines 22-28); consume the second content upon availability (col. 19, lines 35-39); initiate a recording of the second content (col. 14, lines 16-19). However, Maissel does not disclose upon presentation of the recommendation, to: request another recommendation.

Schaffer discloses a system for recommending electronic content to the user comprising enabling the user to request a next suggestion for the purpose of revealing further programming recommendations to the user (pg. 4, ¶64,70).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Maissel to include allowing the user to request more suggestions, as taught by Schaffer, for the purpose of revealing further programming recommendations to the user.

4. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel in view of Dudkiewicz '474 (US 20020152474A1).

With regard to claim 8, Maissel discloses an apparatus and corresponding method for recommending electronic content to a user. Maissel does not disclose generating an audible tune that is substantially representative of the second content.

Dudkiewicz '474 discloses providing a computer-generated spoken message for the purpose of alerting user to the presence of a new recommendation (pg. 12, ¶108).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Maissel to include the audible alert as taught by Dudkiewicz '474 for the purpose of alerting the user to the presence of a new recommendation.

With regard to claim 9, Maissel and Dudkiewicz '474 disclose the claimed subject matter. In particular, Maissel discloses enabling the user to accept the recommendation representative of the second content (col. 19, lines 35-39).

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5. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) _____ - _____ on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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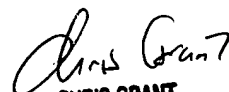
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (703) 305-8714. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the primary examiner, Christopher Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Christopher M. Lambrecht
Examiner
Art Unit 2611

CML


CHRIS GRANT
PRIMARY EXAMINER